

Patent Right	Date	November 29, 2023	Court	Tokyo District Court, 46th Civil Division
	Case number	2020 (Wa) 25892		
- A case in which the court dismissed claims for an injunction and compensation for damage filed due to the infringement of a patent right concerning a patent for an invention titled "Smoking articles and use thereof for yielding inhalation materials."				

### Summary of the Judgment

This is a case in which Plaintiff Company A, which acquired a patent right concerning a patent for an invention titled "Smoking articles and use thereof for yielding inhalation materials" (the "Patent Right" and the "Patent") from the patent holder, and Plaintiff Company B, which obtained a monopolistic non-exclusive license and an exclusive license for the Patent from Plaintiff Company A, filed an action against the Defendants, which imported, sold and otherwise handled several types of heated tobacco sticks ("Defendants' Product 1") and several types of heated smoking articles ("Defendants' Product 2") (a product made of a combination of one Defendants' Product 1 and one Defendants' Product 2 is referred to as the "Defendants' Product"), to seek an injunction against the import, sale, etc. of Defendants' Product 2 and compensation for damage, alleging that: each of the Defendants' Products falls within the technical scope of the invention covered by the Patent (the "Invention"); the Defendants' act of import and sale of Defendants' Product 1 constitutes the acts of infringement under Article 101, items (i) and (ii) of the Patent Act; the Defendants' act of import, sale, etc. of Defendants' Product 2 constitutes the acts of infringement under item (ii) of the same Article; and these acts of the Defendants infringe Plaintiff Company A's Patent Right and Plaintiff Company B's monopolistic non-exclusive license and an exclusive license.

The issues of the case are as follows: [i] whether each of the Defendants' Products falls within the technical scope of the Invention; [ii] whether there are grounds for invalidation of the Patent (lack of an inventive step in the Invention, violation of the support requirement, and violation of the clarity requirement); [iii] whether indirect infringement is established; [iv] whether a claim for an injunction against Defendants' Product 2 without limitation is acceptable; and [v] the amount of damage. In this judgment, the court made a determination only with regard to Issue [i] and dismissed all of the claims of the Plaintiff.

In this judgment, regarding the interpretation of the phrase in the claims of the Patent, "engaging end part operably coupled to the cartridge" (referred to as Constituent

Feature D in this judgment), as part of Issue [i], the court took into consideration the general meaning of the term "engaging" and the statements in the description of the Patent, and interpreted this phrase as meaning that "the relevant engaging end part itself has a certain shape, and the engaging end part of the housing also has a certain shape, and the shapes of these engaging end parts are complementary with each other in a manner that they fit together with almost no gap." Regarding the Defendants' Products, the court determined that each of the Defendants' Products does not fall within the technical scope of the Invention, on the grounds that the shape of the end part of the heated tobacco stick on the side opposite to the mouth end, which would constitute the engaging end part of the cartridge in the Invention, is not complementary with the shape of the bottom of the end cap or heater blade of Defendants' Product 2, which abuts against the end part of the heated tobacco stick on the side opposite to the mouth end.